

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 OMB-01 TRSE-00 CIAE-00 DODE-00 PM-04
H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02
SS-15 USIA-06 /057 W
----- 010850 /46

R 151255Z DEC 76
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 9124
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

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E.O. 11652: N/A
TAGS: PINT PGOV BR
SUBJECT: PRESIDENT GEISEL CASSATES SAO PAULO ASSEMBLY
PRESIDENT FOR CORRUPTION

REF: SAO PAULO 2722

1. SUMMARY. IN A DECISION ANNOUNCED DECEMBER 3, PRESIDENT GEISEL CASSATED SAO PAULO STATE ASSEMBLY PRESIDENT LEONEL JULIO (MDB), UNDER FIRE SINCE LAST AUGUST FOR ALLOWING MISUSE OF ASSEMBLY FUNDS. THE PRESIDENT'S ACTION FOLLOWED BY LESS THAN 24 HOURS A RULING BY THE SAO PAULO STATE ACCOUNTS COURT THAT JULIO MUST RETURN SOME OF THE REPRESENTATION FUNDS HE HAD USED, PLUS INTEREST, TO THE GOVERNMENT. THE PRESIDENT'S RECOURSE TO EXECUTIVE SNATCHES IN THIS CASE WAS NEVER SERIOUSLY IN DOUBT, ONLY THE TIMING. AS IT TURNED OUT, THE FEDERAL GOVERNMENT MADE THE MOST OF THE MDB'S WOES IN THE SAO PAULO STATE ASSEMBLY FOR AS LONG AS POSSIBLE. BY ADROITLY DELAYING THE CASSATION UNTIL AFTER THE ACCOUNTS COURT FURLING, THE GOVERNMENT EFFECTIVELY BLOCKED THE OPPOSITION OF OF PORTRAYING LEONEL JULIO AS A MATYR. IT ALSO DENIED THE MDB AN OPPORTUNITY TO SUBSTANTIATE ITS PUBLIC CLAIM THAT UNLIKE THE GOVERNMENT IT WAS CAPABLE OF CLEANING ITS OWN HOUSE. THE JULIO CASSATION IS THE MOST RECENT DEMONSTRATION OF GEISEL'S BELIEF THAT THE PUNISHMENT OF CORRUPTION, LIKE THE PROTECTION OF NATIONAL SECURITY IS TOO IMPORTANT TO BE LEFT TO THE COURTS. IN THE REGIME'S JUDGEMENT BOTH CONTINUE TO REQUIRE THE USE OF THE AUTHORIZATION POWERS IN AI-5. END SUMMARY.

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2. FOLLOWING REPORT PREPARED BY AMCONGEN SAO PAULO AND HAS EMBASSY CONCURRENCES: LEONEL JULIO'S CASAATION WAS MERELY THE LAST MOVE IN AN ASTUTE GAME PLAYED BY THE FEDERAL GOVERNMENT SINCE LAST AUGUST WHEN THE MDB ASSEMBLY PRESIDENT WAS FIRST ATTACKED BY A MEMBER OF HIS OWN PARTY, FOR MISUSE OF ASSEMBLY FUNDS. FROM THE BEGINING, THE GOVERNMENT'S AIM HAD BEEN TO PROLONG THE DAMAGE INFLICTED ON THE OPPOSITION BY THE ACCUSATIONS OF CORRUPTION IN ITS MIDST, AND TO MAXIMIZE THE POLITIOCAL ADVANTAGE FOR ARENA. ITS WAS ALSO EVEIDENT THAT THE GOVERNMENT WOULD NOT CASSATE ULION PRIOR TO THE NOVEMBER 15 MUNCIPAL COUCIL ELECTION. TO DO SO WOULD HAVE ONLY CREATED ANOTHER MARTYR IN THE OPPOSITION'S STRUGGLE AGAINST AI-5. BUT EVEN AFTER ELECTIONS, THE GOVERNMENT SEEMED CONTENT TO ALLOW THE MDB'S WOUNDS TO FESTER A BIT LONGER.

3. FOR ITS PART, THE OPPOSITION PARTY WAS CLEARLY DIVIDED ON HOW TO DEAL WITH THE JULIO PROBLEM. AT LEAST AT THE STATE LEVEL , THE PARTY'S LEFT-LEANING "AUTENTICO" MINORITY, WHOSE MEMBERS CONSIDERED THE ASSEMBLY PRESIDENT ON OUT AND OUT STOOGUE OF GOVENOR PAULO EDYDIO PRESSED FOR SWIFT JUDGEMENT BY THE MDB LEADERSHIP AND THIS EXPLUSION FROM PARTY RANKS. THIS FACTION RESOLVE TO GO AFTER JULIO'S HEAD STIFFENED EVEN FURTHER WHEN HE ACCUSED SEVERAL OF ITS MORE PROMINENT MEMBERS OF BEING COMMUNISTS.

4. THE MODERATE MDB MAJORITY IN THE STATE PARTY WAS MORE CO CAUTIOUS. ALTHOUGH ADMITTING THAT JULIO HAD ERRED IN ALLOWING HIS ADMINISTRATIVE SUBORDINATES TO MISUSE ASSEMBLY REPRESENTATIONS FUNDS, THE MODERATES FELT HE AND THE MDB WERE BEING HALD TO A DOUBLE STATNDARD OF MORALITY THAT DID NOT APPLY TO THE GOVERNMENT. THEY REASONED THAT ULIO AND THE MDB WERE FORCED TO PAY FOR HIS ADMINISTRATIVE LAPSES, WHILE THE GOVERNMENT GOT OFF SCOT FREE FOR MORE SERIOUS OFFENSES AGAINST THE PUBLIC TREASURY AS EVIDENCED BY THE OUTCOME OF THE "MORDOMIA" SCANDALS.

5. ONE THESIS HOLDS THAT THE THREE POSSIBLE CONTENDERS FOR THE MDB'S 1978 GUBERNATORIAL NOMINATION IN SAO PAULO, SENATORS ORESTES QUERCIA AND FRANCO MONTORA AND NATIONAL PARTY PRESIDENT ULISSES GUIMRAES, WERE RELUCTANT TO PRESS AN INVESTIGATION OF LIMITED OFFICIAL USE

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JULIO FOR FEAR OF ALIENATING MODERAT ASSEMBLY DEPUTIES WHO HAD BACKED JUIO FOR THE ASSEMBLY PRESIDENCY IN 1975. THE THREE MDB LEADERS MAY ALSO HAVE REASONED, AS DID A NUMBER OF OTHER POLITICIANS, THAT IT WOULD HAVE HURT THE PARTY MORE FOR JULIO TO BE BRANDED AS CORRUPT PRIOT TO THE NOVEMBER 15 MUNICIPAL ELECTIONS THAN TO LET THE SITUATION SPUTTER ON UNRESOLVED UNTIL AFTER THE BALLOTING.

6. PROBABLY THE MOST IMPORTANT FACTOR IN THE MDB MAJORITY'S RELEUCTANCE TO SACRIFICE LEONEL JULIO QUICKLY WAS THE PARTY'S OFT PROFESSED GENERAL CONVEICTION THAT BEFORE BEING JUDGED, THE ACCUSED MUST BE ALLOWED AMPLE OPPORTUNITY TO DEFEND HIMSELF AGAINST HIS ACCUSERS. TO DENY THIS PRINCIPLE TO ONE OF ITS OWN, EVEN IN THE INTEREST OF RIDDING THE PARTY OF A COSTLY EMBARRASMENT, WOULD HAVE MADE A MOCKERY OF THE MDB'S PROFESSED BELIEF IN THE ELIMINATION OF EXCEPTIONAL MEASURES. THIS ATTITUDE WAS PARTLY RESPONSIBLE FOR THE PUBLICITY RELAXED ATTITUDE LONG TAKEN BY POSSIBLE GUBERNATORIAL CONTENDER GUIMARAES TOWARD THE CRISIS IN THE PARTY'S SAO PAULO ORGANIZATION. MEANWHILE, THE GOVERNMENT WAS CONTENT TO LET THE OPPOSITION STEW IN THE DISSENSION CAUSED BY LEONEL'S INDISCRETIONS.

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7. IN LATE NOVEMBER, HOWEVER, THE NATINAL MDB LEADERS APPARENTLY BEGAN TO VIEW THE SAO PAULO PARTY'S PROBLEMS WITH MORE URGENCY. THE EXACT REASONS ARE NOT CLEAR FROM HERE. ACCORDING TO ONE THESIS, THE MDB NATIONAL LEADERS LEARNED THAT THE GOVERNMENT HAD TAKEN OR WAS ABOUT TO TAKE A DECISION TO CASSATE JULIO. THEY FELT THE PARTY MUST ACT FIRST TO CLEAN ITS OWN HOUSE, AND THEREBY DERIVE THE CREDIT, BEFORE THE GOVERNMENT ACTED ANOTHER VIEW IS THAT MDB LEADERS HAD FINALLY COME TO THE CONCLUSION THAT THE SAO PAULO ASSEMBLY SCANDAL MUST BE RESOLVED IMMEDIATELY TO CHECK FURTHER DAMAGE TO THE PARTY'S ALREADY TARNISHED PABULIC IMAGE AND TO ITS GRAGILE INTERNAL COHESION. IT WAS PROBABLY FOR THE LATTER REASONS THAT LAST WEDNESDAY 35 MDB FEDERAL DUPETIES SIGNED A NOTE TO ULYSSES GUIMARAES URGING THAT THE SAO PAULO PARTY RESOLVE THE LEONEL JULIO AFFAIR WITH

"ENERGY" AND "SPEED.

8. WHATEVER HIS MOTIVES, GUIMARAES CALLED SAO PAULO STATE MDB PRESIDENT NATAL GALE ON DECEMBER 1, TO URGE THE PARTY'S ETHICS COMMITTEE TO ACCELERATE ITS INVESTIGATION. AS A RESULT OF GUIMARAES'S BELATED INTERVENTION, THE ETHICS COMMITTEE PRESIDENT INFORMED JULIO ON DECEMBER 3 THAT HE HAD ONLY 48 HOURS TO PREPARE HIS DEFENSE AND THAT THE STATE PARTY LEADERSHIP WOULD PASS JUDGEMENT ON THE COMMITTEE'S CONCLUSIONS ON DECEMBER 9.

9. IN THE END, EVEN MDB'S ADVANCED TIMETABLE PROVED TOO SLOW. ONCE THE STATE ACCOUNTS COURT VOTED TO CONDEMN JULIO, THE GOVERNMENT HAD ITS CASE P # LIMITED OFFICIAL USE

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ETED.# BY ACTING

IMMEDIATELY AS IT DID, THE GOVERNMENT DEPRIVED THE MDB OF AN OPPORTUNITY TO PROVE THAT UNLIKE THE ARENA, IT WAS CAPABLE OF CLEANING ITS OWN DIRTY LINEN IN PUBLIC.

10. WHILE THE JULIO STORY MADE HEADLINES THERE WAS RELATIVELY LITTLE REACTION TO HIS CASSATION. JORNAL DO BRASIL EDITORIALIZED ON DECEMBER 4 THAT JULIO WAS A SMALL FISH GUILTY OF SMALL CRIMES AND THEREFORE, NOT A PROPER OBJECT OF AI-5. HE SHOULD HAVE NOT BEEN LEFT TO DUE PROCESS. THE PAPER URGED THAT; " ALL DEMOCRATIC CONSCIENCE AND REVOLUTIONARY IDEAS ADVOCATE THAT THE REVOLUTION BE ESTABLISHED IN SUCH A MANNER THAT THE APPLICATION OF AI-5 MAY BE RESERVED FOR TRULY SPECIAL CASES TO DEFEND REVOLUTIONARY PRINCIPLES."

11. COMMENT. THE GOVERNMENT PLAYED ITS GAME SKILLFULLY. IT MILKED THE ISSUE OF MDB INTERNAL CORRUPTION AS LONG AS IT WAS ABLE TO DERIVE THE TWIN BENEFITS OF AN INCREASINGLY BLACKENED IMAGE OF THE MDB IN SAO PAULO AND HEIGHTENED INTERNAL DISSENSION WITHIN THE PARTY. WHEN THE MDB FINALLY SHOWED SIGNS OF PURGING ITSELF, THE GOVERNMENT ACTED FIRST TO DEPRIVE IT OF THAT SIF-FACTION, AND AT A VERY SMALL POLITICAL COST. IN THE END IT WAS THE GOVERNMENT, NOT THE MDB, WHICH COULD CLAIM TO HAVE ACTED TO END CORRUPTION IN THE ASSEMBLY.

12. THE REAL SIGNIFICANCE OF THE LEONEL JULIO IS NOT WHETHER HE AND HIS SUBORDINATES IMPROPERLY OR ILLEGALLY USED REPRESENTATION FUNDS AND SHOULD NOW BE DISCIPLINED. THE CASE IS SIGNIFICANT FOR WHAT IT SHOWS ABOUT THE WAY IN WHICH PRESIDENT GEISEL APPLIES HIS BROAD AUTHORITARIAN POWERS, WHICH HE HAS NO RELUTANCE TO USE WHEN HE DEEMS IT NECESSARY. SINCE THE 1964 REVOLUTION, CORRUPTION HAS BEEN SECOND ONLY TO NATIONAL SECURITY AS A MAJOR CONCERN OF THE GOVERNMENT. GEISEL HAS SHOWN REPEATEDLY

THAT HE IS NOT DISPOSED TO EAVE PUNISHMENT OF CORRUPTION

BRAZIL'S NOTORIOUSLY SLOW CRIMINAL JUSTICE SYSTEM. IN THE JULIO CASE THE PRESIDENT FOLLOWED A JUDICIAL-ADMINISTRATIVE FINDING IMMEDIATE EXECUTIVE PUNISHMENT BEFORE ANY RIGHTS OF APPEAL COULD BE INVOKED. AS IF TO UNDERLINE THIS, ON THE SAME DAY THAT HE USED AI-5 LIMITED OFFICIAL USE

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TO REMOVE JULIO, PRESIDENT GEISEL EMPLOYED THE SAME POWERS TO CLOSE THE MUNICIPALCOUNCIL OF ALENQUER, AND OBSCURE MUNICIPALITY IN PARA STATE, WHER FIVE MDB COUNCIMAN WERE ALLEGED TO BE BLOCKING THE EXTIRPATION CORRECPTION IN THE MUNICIPALUTY.

13. THERE SHOULD BE NO DOUBT THAT PRESIDENT GEISEL SEE THESE TWO MOST RECENT USES OF AI-5 AS NOT ONLY JUSTIFIED IN THEMSELVES BUT AS EXAMPLES WICH EXPLAIN THE NEED TO RETAIN THE EXCEPTIONAL POWERS, DESPITE FREQUENT CRITICISMS IN MODERATE AND LEBERAL CIRCLES. COMING IN THE WAKE OF GEISEL'S NOVEMBER 15 ELECTION VICTORY, THE CASSATION HAVE CHILLED SOME OF THE MORE OPTIMISTIC SPECULATION THAT GEISEL'S NEWLY WON ENDORSEMENT WOULD ENCOURAGE EARLY LIBERALIZING MEASURES.
END COMMENT.
CRIMMINS

NOTE BY OC/T: PARA 9 #AS RECEIVED

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CORRUPTION, GOVERNMENT REFORM, LITIGATION, POLITICAL PARTIES, PARTY LEADERS, POLITICAL SUMMARIES, PROVINCIAL GOVERNMENT
Control Number: n/a
Copy: SINGLE
Draft Date: 15 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BRASIL10241
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760461-1158
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761238/aaaabgut.tel
Line Count: 253
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 SAO PAULO 2722
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 12 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 JUL 2004 by CunninFX>; APPROVED <25 OCT 2004 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PRESIDENT GEISEL CASSATES SAO PAULO ASSEMBLY PRESIDENT FOR CORRUPTION
TAGS: PINT, PGOV, BR, (GEISEL, ERNESTO), (JULIO, LEONEL)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006